

5-638511

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MAERSK LINE,

Plaintiff,

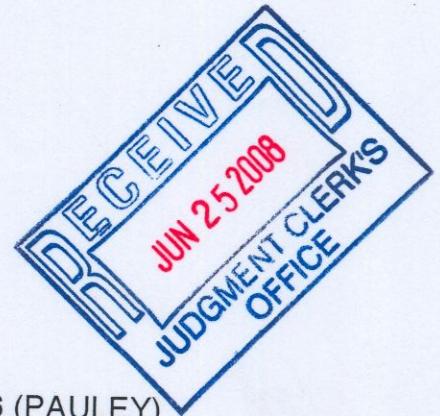
07 CIV. 3816 (PAULEY)

- against -

TARGET INTERNATIONAL SHIPPING,  
INC.,

Defendant.

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MEMORANDUM OF LAW

Facts

This action was commenced seeking \$285,968.67 in unpaid ocean freight. Defendant was served on May 15, 2007, and failed to answer. The amount since service has been reduced to \$115,868.13 due to payments by defendant, and downward adjustments by plaintiff.

A DEFAULT JUDGMENT

Under Fed.R.Civ.P. 55(b)(2), the Court may enter a judgment by default, so long as the Court, in its discretion, can ascertain from the facts set forth in the Complaint that a judgment is warranted. Au Bon Pain v. Arctect, Inc., 653 F.2d 61, at 65 (2d. Cir. 1981). Plaintiff submits that the affidavit of Dave Johnson, together with the Complaint and Bills of Lading, satisfies the requirement of sufficient proof of the accuracy of the allegations of the Complaint.

POINT IIINTEREST AT 6% IS APPROPRIATE

"It is firmly established that [a]llowance of pre-judgment interest in admiralty [actions] . . . should be granted in the absence of exceptional circumstances, and that the rate of pre-judgment interest is within the broad discretion of the district court." Mentor Ins. Co. (U.K.) Ltd. v. Brannkasse, 996 F.2d 506, 520 (2d. Cir. 1993) (Internal citations and quotations omitted.) Plaintiff submits that 6% from the dates of the bills of Lading is proper.

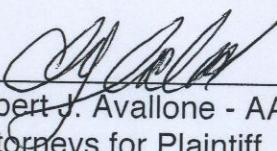
CONCLUSION

Judgment by default, with interest, is appropriate.

Dated: New York, New York  
June 24, 2008

LAW OFFICES OF  
ALBERT J. AVALLONE & ASSOCIATES

By \_\_\_\_\_

  
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